



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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In the Matter of the Application of California-American Water Company (U 210 W) for an order authorizing it to increase its rates for water service in its Monterey District to increase revenues by \$9,456,100 or 32.88% in the year 2006; \$1,894,100 or 4.95% in the year 2007; and \$1,574,600 or 3.92% in the year 2008; and for an order authorizing sixteen Special Requests with revenue requirements of \$3,815,900 in the year 2006, \$5,622,300 in the year 2007, and \$8,720,500 in the year 2008; the total increase in rates for water service combined with the sixteen Special Requests could increase revenues by \$13,272,000 or 46.16% in the year 2006; 7,516,400 or 17.86% in the year 2007; and \$10,295,100 or 20.73% in the year 2008

Application 05-02-012
(Filed February 16, 2005)

In the Matter of the Application of California-American Water Company (U 210 W) for Authorization to Increase its Rates for Water Service in its Felton District to increase revenues by \$796,400 or 105.2% in the year 2006; \$53,600 or 3.44% in the year 2007; and \$16,600 or 1.03% in the year 2008; and for an order authorizing two Special Requests

Application 05-02-013
(Filed February 16, 2005)

**REPLY COMMENTS OF FELTON FRIENDS OF LOCALLY OWNED WATER
ON PROPOSED DECISION RESOLVING GENERAL RATE CASES**

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October 31, 2006

In accordance with Rule 14.3 of the Commission's Rules of Practice and Procedure, Felton Friends of Locally Owned Water ("Felton FLOW") respectfully submit these reply comments on the October 6, 2006 Proposed Decision of Administrative Law Judge Walwyn (the "PD"). Felton FLOW responds to several arguments made by California-American Water Company ("Cal-Am") in its opening comments ("Cal-Am Comments").

I. THE PD CORRECTLY CONCLUDES THAT THE CAL-AM/DRA FELTON DISTRICT SETTLEMENT SHOULD BE REJECTED

In its Opening Comments, Cal-Am claims that the PD contradicts the Commission's policy favoring settlement agreements since it rejects several provisions of the Cal-Am/DRA settlement agreement regarding the Felton District.¹ Cal-Am is wrong. In contested matters, such as this proceeding, the Commission has very clearly held that settlement agreements are nothing more than the "joint position of the sponsoring parties" and cannot be adopted by the Commission unless and until their reasonableness is "thoroughly demonstrated by the record."² The Commission has further held that contested settlements are not entitled to any deference.³ In evaluating the Cal-Am/DRA settlement, the Commission must consider whether the settlement is "reasonable in light of the whole record, consistent with law, and in the public interest."⁴ The PD does so, as it must. In addition, for numerous reasons well established by the evidence of record in this proceeding, the PD correctly finds that the Cal-Am/DRA settlement regarding the Felton District is not reasonable. Under these circumstances, it is perfectly appropriate and entirely consistent with Commission policy, precedent and rules, for the Commission to adopt alternative terms that cure the deficiencies in the settlement regarding the Felton District and that

¹ Cal-Am Comments at 14.

² See *Investigation Re Hillview Water Company, Inc.*, D.02-01-041, 2002 Cal. PUC LEXIS 36 at *19 (Jan. 9, 2002).

³ *Id.*, D.02-01-041, 2002 Cal. PUC LEXIS 36 at *19.

⁴ See Rule 12.1(d) of the Commission's Rules of Practice and Procedure.

are acceptable to the Commission.⁵

II. THE PD CORRECTLY CONCLUDES THAT CAL-AM'S EMPLOYEE EXPENSES IMPROPERLY INCLUDE COSTS INCURRED FOR POLITICAL ACTIVITIES UNDERTAKEN TO OPPOSE PUBLIC ACQUISITION OF THE FELTON DISTRICT

Cal-Am claims that there is no basis for the PD's determination that Cal-Am improperly included in its employee expenses for ratemaking purposes time American Water Works corporate personnel and Cal-Am district personnel spent on political activities related to the company's opposition to community efforts to promote the public acquisition of the Felton District.⁶ Cal-Am is wrong. Felton FLOW introduced substantial evidence that demonstrates that far more time was spent by American Water Works and Cal-Am personnel on political activities related to the company's opposition to public acquisition of the Felton District than Cal-Am has accounted for. The evidence clearly demonstrates that American Water Works and Cal-Am undertook numerous initiatives as part of a systematic campaign to undermine community support and preclude the San Lorenzo Valley Water District and County of Santa Cruz from acquiring the Felton District.⁷ Cal-Am provided nothing to substantiate its claim that all of the political activities have been properly accounted for and the evidence clearly demonstrates otherwise. Mr. Tilden testified, for example, that he did not even record the time he spent drafting legislation to make it more difficult for public agencies to condemn utility facilities, yet a portion of his time is allocated to the Felton District through Cal-Am's General Office expense.⁸ As a result, the PD makes an entirely appropriate adjustment by disallowing 5% of employee-related costs included in Cal-Am's O&M, A&G, and general office expenses.⁹

⁵ See Rule 12.4(c) regarding "Rejection of Settlement."

⁶ Cal-Am Comments at 14.

⁷ See for example, Exhibits 6 through 12.

⁸ See Cal-Am/Tilden RT at 312-315.

⁹ PD at 41.

III. THE PD CORRECTLY CONCLUDES THAT CAL-AM SHOULD BE REQUIRED TO SEEK ADVICE LETTER APPROVAL FOR FUTURE FELTON DISTRICT CAPITAL PROJECTS

The PD recognizes that Cal-Am has an incentive to speed up capital investment in the Felton District in order to increase the cost of a public acquisition of the District. The PD recognizes this danger and would impose reasonable restrictions on Cal-Am's ability to unnecessarily increase capital expenditures from now until the public acquisition of the District.

The Commission imposed more severe restrictions on Cal-Am prior to the public acquisition of the Montara District to prevent the same mischief the PD addresses. In D.02-12-068, the Commission imposed a requirement Cal-Am that if it makes financial expenditures for capital improvement projects on the Montara system prior to the public acquisition of Montara, it must use public financing via the Montara Sanitary District for the projects.¹⁰ The PD's requirement that Cal-Am seek advice letter approval for any new capital projects in the Felton District is entirely appropriate and quite reasonable under the circumstances.

IV. THE RATE SHOCK MITIGATION MEASURES ADOPTED BY THE PD ARE REASONABLE, NECESSARY, AND SUPPORTED BY THE RECORD

Cal-Am opposes the measures the PD adopts to mitigate rate shock to Felton District customers.¹¹ Cal-Am's arguments lack merit. Cal-Am argues that the Commission has already addressed rate shock concerns in D.05-09-004. Cal-Am is correct that the Commission addressed rate shock in D.05-09-004, but it is incorrect in concluding that no further measures to address rate shock are mandated. In fact, contrary to Cal-Am's claim, in D.05-09-004 the Commission explicitly recognized that this rate case could result in additional rate shock and specifically invited the parties to propose additional means to address such rate shock.¹²

¹⁰ D.02-12-068, mimeo at 47; D.01-09-055, mimeo at 43, Ordering Paragraph 3.

¹¹ Cal-Am Comments at 19-20.

¹² "We will consider in the general rate case proceeding any proposals the parties may have advanced for tempering the effects of whatever rate increases are approved there. . . ." D.05-09-004, mimeo at 33-34.

Cal-Am also claims that no rate shock mitigation is merited because the Felton District rate increases have “been caused in large part by long intervals between authorized increases, not by wildly excessive rate awards.”¹³ Cal-Am ignores the fact that these long intervals actually benefited Cal-Am at the expenses of ratepayers since for much of this period, including every year from 1993 to 2001, Cal-Am earned substantially in excess of the return authorized by the Commission.¹⁴

V. THE PD’S REQUIREMENT THAT CALIFORNIA CUSTOMER COMPLAINTS BE REPORTED IS REASONABLE

Cal-Am also opposes the reporting requirement the PD would impose regarding customer complaints. Cal-Am claims these requirements are unjustified and unduly burdensome.¹⁵ The record demonstrates, however, that Cal-Am has failed to appropriately respond to customer complaints repeatedly and that Cal-Am’s complaint resolution process is inadequate.¹⁶

Cal-Am’s claim that there is nothing in the record to show that the data regarding its customer service for the Western Region of American Water “is not indicative of the call center’s performance for California,” but the truth of the matter is that American Water’s national call center cannot track complaint data on a state-specific basis,¹⁷ and provides no specific data regarding Cal-Am’s response to California customer complaints. Thus, the PD provides very good grounds for the additional reporting requirements it would impose.

VI. THE PD CORRECTLY CONCLUDES THAT AN ADJUSTMENT TO THE HIGHWAY 9 PROJECT COSTS IS APPROPRIATE

Cal-Am also argues that the \$50,000 adjustment to the Highway 9 main replacement

¹³ Cal-Am Comments at 20, quoting D.05-09-004, mimeo at 31.

¹⁴ See discussion in D.04-05-023, mimeo at 54, footnote 72 nothing this fact and citing the evidence in support of it, which included Cal-Am’s own admission.

¹⁵ Cal-Am Comments at 23.

¹⁶ See e.g., Exhibit 29 Felton FLOW/Meyer; Exhibit 26 Felton FLOW/Mosher; Exhibit 31 Felton FLOW/Bonfante; Exhibit 32 Felton FLOW/Largay; Exhibit 40 Felton FLOW/Rugg; Exhibit 41 Felton FLOW/Lindsay; Exhibit 42 Felton FLOW/Lindstron-Latshaw; Exhibit 43 Felton FLOW/McVicar; Exhibit 44 Felton FLOW/Osborn; Exhibit 45 Felton FLOW/Renner; Exhibit 27 Felton FLOW/Meyer/Lindsay/Krostue.

¹⁷ Cal-Am Comments at 21.

project costs adopted by the PD is unjustified because the cost of all of the measures required by CalTrans was paid entirely by Cal-Am's contractors.¹⁸ Contrary to Cal-Am's claims, Cal-Am's contractors did not absorb all of the excessive and unnecessary costs incurred on the Highway 9 project. Unnecessary costs were incurred and included in the original bids for the project as a result of Cal-Am's imprudent decision to schedule the work during the winter season when the project was certain to be impacted by heavy winter rains common in the Santa Cruz Mountains. Those imprudent costs would not have been paid by the contractors.

VII. CONCLUSION

Felton FLOW respectfully requests that the Commission adopt the PD with only the changes proposed by Felton FLOW in its Opening Comments.

Respectfully submitted,

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October 31, 2006

¹⁸ Cal-Am Comments at 16-17; PD at 80.

CERTIFICATE OF SERVICE

I, Christina Karo, certify:

I am employed in the City and County of San Francisco, California, am over eighteen years of age and am not a party to the within entitled cause. My business address is 505 Montgomery Street, Suite 800, San Francisco, California 94111-6533.

On October 31, 2006, I caused the following to be served:

**REPLY COMMENTS OF FELTON FRIENDS OF LOCALLY OWNED WATER
ON PROPOSED DECISION RESOLVING GENERAL RATE CASES**

via electronic mail to all parties on the service list A.05-02-012 who have provided the Commission with an electronic mail address and by First class mail on the parties listed as "Appearance" and "State Service" on the attached service list who have not provided an electronic mail address.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on the date above at San Francisco, California.

_____/s/_____
Christina Karo

VIA U.S. MAIL AND EMAIL

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List Name: LIST

Last changed: October 11, 2006

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